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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,687	02/09/2006	Junichi Hirai	20060142A	2120
52349	7590	01/22/2009		
WENDEROTH, LIND & PONACK LLP. 2033 K. STREET, NW SUITE 800 WASHINGTON, DC 20006			EXAMINER	
			JAKOVAC, RYAN J	
			ART UNIT	PAPER NUMBER
			2445	
			MAIL DATE	DELIVERY MODE
			01/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,687	Applicant(s) HIRAI ET AL.
	Examiner RYAN J. JAKOVAC	Art Unit 2445

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 November 2008.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10,13-15 and 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10, 13-15, 17-19 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application
 6) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 11/12/2008 have been fully considered but they are not persuasive.
2. Applicant argues that Graham does not disclose an interruption location capturing unit configured to monitor and capture an interruption location at which the content receiving device becomes unable to receive content, or an interruption location at which viewing and/or listening of content using the content receiving device has been interrupted. However, the examiner respectfully disagrees. Graham in the abstract discloses, during the download of data, the tracking of the last file boundary and position of compression block boundaries before the last file boundary. When the download is interrupted, the system uses recovery state information to resume the download at an efficient location in the data stream. Thus, an interruption location is captured. Further, in at least col. 3, line 1-25, Graham discloses that the server detects when the download was interrupted based on a client request and captures the interruption location. This is also disclosed in at least col. 5, line 45-60.
3. Applicant argues that col. 2, line 1-30, col. 3, line 1-25, and col. 4, line 45-60 do not disclose a content transmission device. However, col. 2, line 1-30 refers to a download between a client and a server (i.e. content transmission device.). Col. 3, line 1-25 expressly states that the server (i.e. content transmission device.) resumes sending...starting with the position that corresponds to the compression block boundary. And lastly, col. 4, line 45-60 states that "the server resumes sending the compressed archive starting with the stored compression block boundary."

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4. Applicant argues that Graham does not disclose a transmission controlling unit configured to control said transmission unit so as to transmit content in said storage unit to the content receiving device that corresponds to the interruption location captured by said interruption location capturing unit, however, the Examiner respectfully disagrees. At least the aforementioned portions of Graham disclose that the server resumes the sending process of an interrupted download based on the interruption location. Applicant's arguments towards claim 17 are addressed by similar rationale. The disclosure of Graham is directed at resuming the transmission of content after a download has been interrupted based on the interruption location (Graham, abstract.)

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-3, 5-10, 13-15, and 17-19 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 7,343,435 to Graham.

Regarding claim 1, 17, 18, Graham teaches a content transmission device for use with, and to be connected with, a content receiving device over a network, said content transmission device comprising:

a storage unit configured to store content (Graham, col. 4, line 60-67, the server downloads content to the client (i.e. content is stored on the server.). See also, abstract, col. 2, line 60-67.);

a transmission unit configured to transmit content to said the content receiving device (Graham, col. 4, line 60-67, content is transmitted to the client (i.e. content receiving device).);

an interruption location capturing unit configured to monitor and capture an interruption location at which the content receiving device becomes unable to receive content, or an interruption location at which viewing and/or listening of content using the content receiving device has been interrupted (Graham, col. 3, line 1-25, the server detects when the download was interrupted based on a client request and captures the interruption location. See also, abstract, fig. 3, and col. 4, line 45-60.);

a transmission controlling unit configured to control said transmission unit so as to transmit content in said storage unit to the content receiving device that corresponds to the interruption location captured by said interruption location capturing unit (Graham, col. 2, line 1-30, the server resumes the transmission starting with the position where the download was interrupted.).

Regarding claim 2, 3, 5, 6, 8, 9, 19, Graham teaches the content transmission device recited in Claim 1, wherein said interruption location capturing unit further comprises a status

monitoring unit configured to receive and monitor the status of the content received by said the content receiving device, and capturing the interruption location based on the status (Graham, col. 2, line 1-30, the server resumes the transmission starting with the position where the download was interrupted. The transmission is resumed based on the client request (i.e. status/notification).).

Regarding claim 7, Graham teaches the content transmission device recited in Claim 1, wherein the content comprises a plurality of chapters, and said interruption location capturing unit captures the interruption location in chapter units (Graham, col. 3, line 1-40, the content comprises compression blocks with compression block boundaries (i.e. chapters) and the interruption location corresponds to compression block boundaries.).

Regarding claim 10, Graham teaches the content transmission device recited in Claim 1, wherein said content comprises a plurality of chapters; said interruption location capturing unit captures as the interruption location the chapter including a location at which the content receiving device becomes unable to receive content, or the location at which the viewing and/or listening of content using the content receiving device has been interrupted (Graham, col. 3, line 1-40, the content comprises compression blocks with compression block boundaries (i.e. chapters) and the interruption location corresponds to compression block boundaries.); and said transmission controlling unit controls said transmission unit so as to transmit content to the content receiving device starting from the beginning of the chapter captured by said interruption

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location capturing unit (Graham, col. 2, line 1-30, the server resumes the transmission starting with the position where the download was interrupted.).

Regarding claim 13, Graham teaches the content transmission device recited in Claim 1, wherein said memory controlling unit performs control so that said transmission unit transmits content to the content receiving device based on said interruption location, while said storage unit stores content received by said receiving unit (Graham, col. 2, line 1-30, the server resumes the transmission starting with the position where the download was interrupted. The server receives (i.e. stores) the client request.).

Regarding claim 14, Graham teaches the content transmission device recited in Claim 2, wherein said status monitoring unit notifies said transmission controlling unit of detection results upon detecting that the content receiving unit has become able to receive or play back content (Graham, col. 2, line 1-30, the server transmits data based on the client request.); and said transmission controlling unit controls said transmission unit so as to transmit content of said storage unit to the content receiving device based on said detection results (Graham, col. 2, line 1-30, the server transmits data based on the client request. See also, abstract.).

Regarding claim 15, Graham teaches the content transmission device recited in Claim 2, wherein said status monitoring unit, upon receiving a request for transmission starting from the interruption location from the content receiving device, notifies said transmission controlling unit of the transmission request; and said transmission controlling unit controls said transmission unit

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so as to transmit the content in said storage unit to the content receiving device based on the notification of said transmission request (Graham, col. 2, line 1-30, the server transmits data based on the client request. The server transmits according to the corresponding interruption location. See also, abstract.).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Graham in view of US 6,430,620 to Omura et al (hereinafter Omura).

Regarding claim 4, Graham teaches the content transmission device recited in Claim 2. Graham does not expressly disclose wherein said status monitoring unit detects that an error rate of communication with the content receiving device has exceeded a predetermined value, and captures the interruption location based on the detection results. However, Omura discloses wherein said status monitoring unit detects that an error rate of communication with the content receiving device has exceeded a predetermined value, and captures the interruption location

based on the detection results (Omura, col. 2, line 1-40, the receiving buffer is monitored and the data loss rate (i.e. error rate) is detected and reported. See also, col. 9, line 35-50 describing the recording of position number in the event of data loss.).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine wherein said status monitoring unit detects that an error rate of communication with the content receiving device has exceeded a predetermined value, and captures the interruption location based on the detection results as taught by Omura with the device of Graham in order to adjust the send rate of data in order to compensate for data loss (Omura, col. 2, line 5-37.)

Conclusion

9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN J. JAKOVAC whose telephone number is (571)270-5003. The examiner can normally be reached on Monday through Friday, 7:30 am to 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RJ/

/Larry D Donaghue/
Primary Examiner, Art Unit 2454